



## SENTENCING IN WISCONSIN

### Snapshots of Information on Wisconsin Sentencing

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### Legal Status and Repeat Crime in Wisconsin

Adam Bradshaw, Research Analyst

Criminal recidivism has always been a principal concern for those involved in the Wisconsin criminal justice system. An offender's likelihood to re-offend is one of the primary criteria used by judges in determining proper sentences. The Sentencing Guideline Worksheets used by Wisconsin judges utilize a grid by which an offender's sentence is recommended on the basis of two factors: Offense Severity, which reflects the need for punishment based on the wrongfulness of the defendant's conduct, and Risk Assessment, which pertains to the defendant's likelihood to re-offend and the need to incapacitate the defendant in order to maintain public safety.<sup>1</sup>

#### Determining the Risk of Re-Offense

The worksheet data collected by the Wisconsin Sentencing Commission contains multiple ways for judges to indicate whether or not a defendant's criminal history affected their sentence. First, judges have the option to note whether or not a defendant was on "Legal Status" at the time of the offense. The Wisconsin Sentencing Guidelines Notes state that a defendant has Legal Status if, at the time of the offense, the defendant was:

1. on probation for any felony or violent misdemeanor,
2. on parole,
3. on extended supervision,
4. subject to juvenile supervision following adjudication for an act that would have been a felony or a violent misdemeanor if committed by an adult,
5. an escapee,
6. an absconder,
7. an inmate serving a sentence, or
8. a juvenile under a secure corrections disposition.<sup>2</sup>

Second, judges have separate opportunities to note on the worksheets whether the offense in question was a non-violent felony committed on Legal Status or a violent felony on Legal Status. Finally, there are also separate areas on the worksheets to indicate whether or not the current offense is the same as/similar to a previous

offense or the same as/similar to multiple previous offenses. For the purposes of clearer presentation in this snapshot, "Repeat Offenders" henceforth refers to cases where judges have noted "Present offense same as/similar to previous offense," and "Multiple Offenders" refers to cases where judges have noted "Multiple convictions same as/similar to previous offenses."

Using the aforementioned Worksheet data, the Commission has compiled the following statistics on recidivism in Wisconsin:

1. As of February 14, 2005, **1591** crimes have been documented on Worksheets.
2. **24%** of all crime documented took place while the defendant was on Legal Status (382 cases).
3. **40.3%** of these "Legal Status Crimes" were the same as/similar to the original offense committed by the defendant (154 cases).
4. **20.7%** of "Legal Status Crimes" were the same offense, having been repeated multiple times (79 cases).
5. **51.3%** of all repeat offenders (154 cases) repeated the offense multiple times (79 cases).

#### Non-Violent vs. Violent Recidivism

Further analyses of these data reveal that 48.1% of non-violent repeat crime is committed by multiple offenders, while 68% of violent repeat crime is committed by multiple offenders. This tendency for violent offenders to repeat more often than non-violent offenders is reflected in the Sentencing Guidelines Risk Assessment Notes, which place a defendant at "Medium Risk" for a non-violent felony committed while on legal status, and "High Risk" for a violent felony committed on legal status.<sup>3</sup>

However, non-violent crime makes up 72.3% of all crimes committed on legal status (276/382 cases). Therefore, while it seems that violent offenders have a greater tendency to repeat the same offense multiple times, non-violent offenders may pose a greater risk to repeat the same offense at least once (see Table 1).

suggest, as Burglary and Forgery alone make up nearly 60% of all crimes committed on legal status. 32.4% of all burglaries documented by the worksheets are not the first time the defendant has committed this offense, and likewise for 24.5% of all forgeries. Theft is actually the most repeated

**Table 1: Distribution of Legal Status Crime**

	# of Offenses	% of all Crime	% of All Crime on Legal Status	% of All Repeat Non-Violent Crimes	% of All Repeat Violent Crimes
<b>Multiple Repeat Offenders</b>	79	5	20.7	48.1	68
<b>Violent Crime on Legal Status</b>	106	6.7	27.7	0	100
<b>Non-Violent Crime on Legal Status</b>	276	17.3	72.3	100	
<b>Crime on Legal Status</b>	382	24	100		
<b>All Crime</b>	1591	100			

### Which Offenses are Repeated Most?

Approximately 80% of all crimes committed while on legal status is comprised of four offenses: Burglary, Forgery, Armed Robbery, and Robbery (see Table 2). The remaining 20% is made up of the seven other offenses which the Commission collects data on, mainly drug and sex crimes, none of which comprise more than 6.5% of Legal Status Crimes as measured by the worksheets. The Commission recognizes that recidivism rates for some of these crimes are not accurately reflected by the worksheet data due to the fact that the worksheets only collect data on cases involving: 1 gram or less of cocaine, 200-500 grams of THC, and over \$10,000 in theft. Also, high recidivism rates are known and accounted for in the sentencing guidelines for sex crimes; however, worksheet data for these offenses is skewed due to small number of cases.

<b>Table 2: Most Common Crimes on Legal Status</b>	
Burglary	36.1%
Forgery	23.3%
Armed Robbery	14.1%
Robbery	7.1%

From this list, one might consider that non-violent crimes do indicate a greater risk to recidivate than the guidelines

crime according to the worksheets, though it is not as common among crimes committed while on legal status. Burglary, theft, and forgery are also among the four most multiply repeated crimes, along with robbery, the only violent crime to make either list (see Table 3).

<b>Table 3:</b>			
<b>Most Repeated Crimes</b>		<b>Most Multiply Repeated Crimes</b>	
Theft	42.9%	Burglary	17.9%
Burglary	32.4%	Theft	14.3%
Forgery	24.5%	Robbery	13.9%
Possession w/ intent to Deliver - THC	23.6%	Forgery	12.3%

### Recognition of Need

The Commission recognizes the need for accurate reporting from judges in all cases regarding worksheet data. Recidivism rates reported on the worksheets may not accurately describe actual rates in Wisconsin, unless judicial reporting is complete. A future snapshot on the breakdown between non-violent and violent recidivism is planned to continue the assessment of risk posed by each.

<sup>1</sup> See *Wisconsin Sentencing Guidelines Notes*, pp. 3, 12.

<sup>2</sup> *ibid.* 16-17.

<sup>3</sup> *ibid.* 18.